

DIRECTIVE

WORKFORCE INVESTMENT ACT

Number: WIAD04-3

Date: August 17, 2004
69-1:125:is:8539

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: LWIB RECERTIFICATION (*INACTIVE*)

EXECUTIVE SUMMARY:

Purpose:

The purpose of this directive is to communicate State of California policy and procedures regarding the recertification of Local Workforce Investment Boards (LWIB).

Scope:

This directive applies to all 50 California LWIBs.

Effective Date:

This directive is effective on the date of its issuance.

REFERENCES:

- The Workforce Investment Act (WIA), Section 117(a)(b) and (c).
- WIA Directive WIAD02-4, Subject: LWIA Nonperformance Policy (September 18, 2002)

STATE-IMPOSED REQUIREMENTS:

This directive contains State-imposed requirements, which are indicated in ***bold, italic type***.

FILING INSTRUCTIONS:

This directive supersedes WIA Directive WIAD02-5, dated September 18, 2002, and finalizes WIA Draft Directive WIADD-75 issued for comment on July 21, 2004. Retain this directive until further notice.

BACKGROUND:

WIA Section 117(c)(2) CERTIFICATION states:

- (A) IN GENERAL – The Governor shall, once every 2 years, certify 1 local board for each local area in the State

- (B) CRITERIA – Such certification shall be based on criteria established under subsection (b) [MEMBERSHIP] and, for a second or subsequent certification, the extent to which the local board has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the local performance measures.

WIA Section 117(c)(3) DECERTIFICATION states:

- (A) FRAUD, ABUSE, FAILURE TO CARRY OUT FUNCTIONS – Notwithstanding paragraph (2) [CERTIFICATION], the Governor may decertify a local board, at any time after providing notice and an opportunity for comment, for-
 - (i) fraud or abuse; or
 - (ii) failure to carry out the functions specified for the local board in any of paragraphs (1) through (7) of subsection (d) [FUNCTIONS OF THE LOCAL BOARD].
- (B) NONPERFORMANCE – Notwithstanding paragraph 2 [CERTIFICATION], the Governor may decertify a local board if a local area fails to meet the local performance measures for such local area for 2 consecutive program years (in accordance with section 136(h)) [SANCTIONS FOR LOCAL AREA FAILURE TO MEET LOCAL PERFORMANCE MEASURES].

The Governor recertified the current LWIBs in November of 2002, after determining that the appointment and composition of each LWIB was consistent with the criteria in WIA Section 117(b). By December of 2004, the Governor must determine whether or not to recertify each of California's 50 LWIBs and must consider each LWIB's performance in doing so.

POLICY AND PROCEDURES:

Policy:

The [WIA Section 117](#) contains the requirements for nominating, selecting, and appointing LWIB members. Please refer to Subsections 117(b) and (c) for information regarding the process.

The WIA Section 117(c)(2) provides the federal requirement that the Governor shall certify one LWIB for each local area every two years based on the required membership and performance criteria. Per WIA Section 117(c)(3), the Governor may decertify LWIBs for fraud, abuse, or failure to carry out their required functions, or for failure to meet local performance measures for two consecutive years. The State Board adopted the following policy for recertifying LWIBs, which includes the minimum criteria in California for achieving locally negotiated performance measures:

A LWIB may be recertified by December 2004 based on meeting the membership criteria, as described in the WIA Section 117, and its designated LWIA achieving 80 percent or higher on at least 9 of the 11 locally negotiated performance measures (excluding 2 customer service measures and 4 credential and diploma measures).

The 11 performance measures include:

ADULT	DISLOCATED WORKER	OLDER YOUTH	YOUNGER YOUTH
Entered Employment Rate	Entered Employment Rate	Entered Employment Rate	Skill Attainment Rate
Employment Retention Rate	Employment Retention Rate	Employment Retention Rate	Retention Rate
Earnings Change	Earnings Replacement	Earnings Change	

Procedures:

In order for the Governor to determine that LWIBs are in compliance with the membership requirements of WIA Section 117(b), all LWIBs are required to complete the attached LWIB Membership Certification and submit it to the Program Section of the Workforce Investment Division (WID). Comments are required to explain any unfilled or vacant positions. The form must be signed by the LWIB chairperson or officially designated alternate.

The LWIBs must also complete the attached LWIB Mandated Functions Certification in order to self-certify that they have carried out the functions specified for the local board in Section 117(d) paragraphs (1) through (7). Both of these documents are to be received by WID no later than 5:00 p.m. on August 20, 2004. For submittal instructions, see the subsection "ACTION" below.

Based on the performance outcomes reported to the Department of Labor in the State's Annual Report for program years 2002-03 and 2003-04, the WID will calculate the achievement or nonachievement of a minimum of 80 percent in 9 of the 11 designated performance measures stipulated in the State policy for all 50 LWIAs. A LWIA must meet their locally negotiated performance measures (excluding 2 customer service measures and 4 credential and diploma measures) for two consecutive years. If a LWIA is not performing at a minimum of 80 percent in at least 9 of the 11 designated measures, State Board staff will coordinate with WID staff to identify the LWIA's needs relative to improving performance. This will include requiring the LWIA and/or the LWIB to develop a jointly signed corrective action plan and the WID staff working as necessary with the LWIA and/or the LWIB to help the local area improve its performance. The corrective action plan must be completed as required by WIA Directive WIAD02-4, Subject: LWIA Nonperformance Policy.

Additionally, the Employment Development Department will provide monitoring and expenditure information that will be used to determine fraud, abuse, and failure to carry out functions as outlined under WIA Section 117(c)(3) (A).

If an LWIB is found out of compliance, the State Board will forward final recommendations regarding recertification to the Governor. The LWIB will be notified in writing by December 31, 2004, regarding its recertification status.

ACTION:

Please bring this directive to the attention of the LWIB and other relevant parties.

The LWIBs are required to complete the attached LWIB Membership List and LWIB Mandated Functions Certification and submit them to the WID Program Section so they are received by 5:00 p.m., August 20, 2004. The WID will accept signed or unsigned copies on or before this date. The signed copies must be received no later than September 3, 2004.

Mail: Program Section
Workforce Investment Division, MIC 69-1
Employment Development Department
P. O. Box 826880
Sacramento, CA 94280-0001

Overnight Mail: Program Section
Workforce Investment Division, MIC 69-1
Employment Development Department
800 Capitol Mall
Sacramento, CA 95814

Hand Deliver: Program Section
Workforce Investment Division, MIC 69-1
Employment Development Department
722 Capitol Mall, Room W1077
Sacramento, CA 95814

INQUIRIES:

If you have questions concerning this directive, contact your assigned [Regional Advisor](#).

/S/ BOB HERMSMEIER
Chief
Workforce Investment Division

Attachments are available on the Internet:

1. [LWIB Membership Certification Request](#) (DOC) (164k)
2. [LWIB Mandated Functions Certification](#) (DOC)